

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket Nos. 2019-077-10115R & 2019-077-10118R

Parcel No. 320/01351-000-000

**Donald and Debra Laster,**

Appellant,

vs.

**Polk County Board of Review,**

Appellee.

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**Introduction**

The appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on July 24, 2020. Donald and Debra Laster were self-represented and asked that the appeal proceed without a hearing. Assistant Polk County Attorney Jason Wittgraf represents the Board of Review.

Debra A Laster Family Farm Revocable Trust (Laster) owns a residential property located at 1101 20th Street, West Des Moines. Its January 1, 2018 assessment was set at \$719,500, allocated as \$64,000 in land value and \$655,500 in improvement value. (PAAB Docket No. 2019-077-10118R, Appeal). Its January 1, 2019 assessment was set at \$782,400, allocated as \$71,200 in land value and \$711,200 in dwelling value. (PAAB Docket No. 2019-077-10115R, Ex. B).

Donald Laster petitioned the Board of Review in 2019 contending there was an error in the January 1, 2018 assessment. Iowa Code § 441.37(2)(a) (2019). (Docket 10118R). The Board of Review denied the petition regarding the 2018 assessment. (Docket 10118R, Appeal).

Laster also petitioned the Board of Review contending the 2019 assessment was not equitable as compared with assessments of other like property, that it was assessed for more than the value authorized by law, and that there was an error in the assessment. Iowa Code § 441.37(1)(a)(1, 2, & 4) (2019). (Docket 10115R, Ex. C). The Board of Review modified the improvement value to \$680,100, setting the total value at \$751,300. (Docket 10115R, Ex. B).

Laster then appealed to PAAB re-asserting his claims for the 2018 and 2019 assessments.<sup>1</sup> The only claim available to Laster for the 2018 appeal is that there is a clerical or mathematical error in the assessment. § 441.37(2)(a).

### **Findings of Fact**

The subject property is a one-story home built in 2016. It has 2777 square feet of gross living area; 2979 square feet of unfinished basement; a 1241 square foot, three-car garage; two patios; and a porch. The improvements are listed as a 0+05<sup>2</sup> grade (Executive Quality) and in normal condition. The site is 0.955 acres. Laster purchased the subject site in February 2016 for \$210,250. (Ex. A).

Laster listed four properties and their assessments, all located on 20th Street, on his petition to the Board of Review. (Ex. C). He provided automated valuation models obtained through three nationally known websites: Zillow, Quantorium, and Realtors Property Resource® (RPR) for three of those properties. (Exs. 1-5). The following table is a summary of the data Laster presented regarding the three properties.

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<sup>1</sup> Laster and the Board of Review submitted the same exhibits for both the 2018 and 2019 appeals. (Exs. A-D & 1-5).

<sup>2</sup> The Polk County Assessor's Office substitutes a "0" for an E to accommodate its computer system.

Property	Lot Size (Acre)	Year Built	Grade (Quality)	Gross Living Area (SF)	2019 Assessed Value	AV/GLA	Zillow Estimate	Quatorium Estimate	RPR Estimate
Subject	0.955	2016	0+05	2777	\$751,300	\$270.54	\$636,658	\$653,539	\$531,000
1 - 1115 20th St	1.194	1989	1+10	5602	\$877,500	\$156.64	\$927,023	\$888,203	\$881,000
2 - 1127 20th St	0.955	1947	1+10	5913	\$838,700	\$141.84	\$951,974	\$944,254	\$878,000
3 - 1104 20th St	0.836	1990	1+00	5370	\$732,600	\$136.43	\$754,691	\$799,700	\$676,000

Comparable 2 sold in May 2014 for \$771,000 from Donald Laster to the current owner; none of the others have recently sold.

Laster asserts the average estimate of value for the subject property, from the three websites, is roughly \$607,000<sup>3</sup>; or \$218.60 per square foot. (Ex. 1). In Laster's opinion, this demonstrates the subject is over assessed at \$270.54 per square foot. Although Laster believes these websites provide reliable information for valuation, PAAB cannot determine whether their methods for arriving at a value comports with Iowa law. There is no indication how these websites arrive at their value conclusions, whether it is through an analysis of comparable sales or by other methods. Even if sales are used to arrive at a value for a subject property, there is no underlying support to show these sales are normal and comparable to the subject property. Therefore, we give the website value opinions no consideration.

In addition to issues with how these websites arrive at value conclusions, we note the listing Laster provided for the subject property indicates it was built in 1952, which is incorrect. The subject property was actually built in 2016. This error alone makes these value assumptions unreliable because the age of a property affects depreciation when arriving at an opinion of market value. Because the listing has the property older than its actual age, depreciation would have been higher, resulting in artificially low value.

The comparables are approximately 16 to 17 years older than the subject. Older properties would typically have greater depreciation resulting in lower assessments.

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<sup>3</sup> Laster concluded an average of \$607,097. (Ex. 1). The actual average is \$607,066, for analysis, PAAB will round to \$607,000.

Additionally, all of the properties have 1+00 or 1+10 grades (superior quality), which is lower than the subject's executive quality grade. The difference in grade would also result in a lower assessed value for each of the properties compared to the subject. Several properties, Comparables 1 and 3, have detached structures, such as garages and swimming pools that also add to their assessed value. Lastly, all of the comparable properties are roughly 2600 to 3100 square feet larger than the subject property. As the gross living area of a property increases, the price or value per square foot decreases. Comparing significantly larger properties, on a per square foot basis, to a smaller property skews the analysis. Ultimately, we find there are significant points of difference between Laster's property and the properties he selected and they are not reasonably comparable for any valuation analysis.

Laster also analyzed the assessed value per square foot of the nearby properties and concluded an average of \$143.98; this calculation included the four properties listed on the petition. (Exs. 1 & C). Because Laster only submitted evidence regarding three of the properties, PAAB has recalculated the average assessed value per square foot to \$144.97. In Laster's opinion, the average assessed value per square foot of these properties should be used to value his property. Based on Laster's logic, the subject property's correct assessed value is \$402,600<sup>4</sup> rounded. As previously stated, comparing significantly larger properties, on a per square foot basis, to a smaller property will not result in a reliable analysis.

The Board of Review asserts its action was reasonable and Laster has failed to support his claims.

## **Analysis & Conclusions of Law**

### **General Principles of Assessment Law**

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<sup>4</sup> \$144.97 average assessed value per square foot of nearby properties X 2777 gross living area of subject = \$402,600 rounded.

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

### **2018 Assessment**

Laster asserts there is an error in the 2018 assessment of its property. A property owner may challenge an assessment made in a previous year on the ground that a “clerical or mathematical error has been made in the assessment.” § 441.37(2)(a). This claim may only be made for a year “in which the taxes have not been fully paid or otherwise legally discharged.” *Id.*

A clerical or mathematical error, is one of writing or copying. Such an error results in the recording of an assessment figure that was not intended by the assessor. In contrast, an assessment entered in an amount intended by the assessor is not the result of clerical error even though an error of judgment or law affected the assessor’s determination of the property assessment. That is because an error in judgment or a mistake of law is an error of substance; it is not a clerical error.

*American Legion, Hanford Post 5 v. Cedar Rapids Board of Review*, 646 N.W.2d 433, 439 (Iowa 2002) (emphasis in original).

Laster asserts the assessed value is incorrect based on the average assessed value of other nearby properties, which are much older and larger than the subject property. This evidence does not show any clerical or mathematical errors in the 2018 assessment.

### **2019 Assessment**

Laster asserts the 2019 assessment is not equitable as compared with assessments of other like property, that it was assessed for more than the value authorized by law, and that there was an error in the assessment. Iowa Code § 441.37(1)(a)(1, 2, & 4) (2019). Laster bears the burden of proof. § 441.21(3).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Laster offered no evidence of the Assessor applying an assessment method in a non-uniform manner.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019 assessments) of comparable properties, the subject property is assessed at a higher portion of its actual value. Laster did not submit any recent sales. A comparison of assessed values is insufficient to prevail on an inequity claim under *Maxwell*.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b).

Laster submitted three properties he believes demonstrate the subject property is over assessed. None of these properties have recently sold, and all are significantly larger and older than the subject property. A comparison of the assessed value per square foot of nearby, but not necessarily comparable property, is insufficient to prevail on a claim of over assessment. Laster did not submit any evidence, such as an appraisal or comparative market analysis demonstrating the subject property's market value as of January 1, 2019.

Viewing the record as a whole, we find Laster failed to support his claims for either the 2018 or 2019 appeals.

### **Order**

PAAB HEREBY AFFIRMS the Polk County Board of Review's action for the January 1, 2018 and January 1, 2019 assessments.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



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Karen Oberman, Board Member



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Dennis Loll, Board Member



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Elizabeth Goodman, Board Member

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